

## REMARKS

Reconsideration of the above-identified application in view of the amendment above and the remarks below is respectfully requested.

No claims have been canceled or added in this paper. Claims 1 and 33 have been amended in this paper. Therefore, claims 1-4 and 24-35 are pending and under active consideration.

Applicant wishes to thank Examiner Wright for the courtesies extended to the undersigned in a telephonic interview conducted on March 2, 2010. During said interview, the proposed Examiner's Amendment of December 23, 2009, was discussed (since Applicant did not have an opportunity to respond to the same prior to the mailing of the outstanding Office Action on January 7, 2010). In particular, during the interview, the undersigned communicated to Examiner Wright that Applicant was agreeable to the proposed Examiner's Amendment, provided that the proposed Examiner's Amendment was modified to delete the language requiring that the image recording device be inside the chamber. This language was apparently included in the proposed Examiner's Amendment based on Examiner Wright's understanding that this language was needed to present a complete operative device. However, as communicated to Examiner Wright by the undersigned during the interview, the present application explicitly teaches (see, for example, the paragraph bridging pages 7 and 8 and Fig. 3) that the image recording device need not be inside the chamber, but rather, may alternatively be outside the chamber. Examiner Wright agreed that this feature was supported by the present application and appeared to indicate that the modification put the claims in allowable form.

Claims 31-33 stand rejected under 35 U.S.C. 112, second paragraph, "as being indefinite for failing to particularly point and distinctly claim the subject matter which applicant regards as the invention." In support of the rejection, the Patent Office states the following:

It remains unclear where the “antireflection plate” is located in the system. Claim 31 states an antireflection plate is provided and arranged on the side of the container turned away from the image recording device. Claim 1 states the container is in the chamber. However, it is not clear from language of the claim whether the antireflection plate (located on the side of the container opposite the image recording device) is inside the chamber or outside the chamber. As currently written, the breadth of the claim is such that the antireflection plate can be located outside the chamber and on the side of the container opposite the image recording device in claims 31-33. This would provide an inoperative device since the antireflection plate would not be able to mask out characters on the container during imaging of the body fluid. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. This same logic is applicable to the image recording device. (Emphasis in original.)

Applicant respectfully traverses the subject rejection. Insofar as the subject rejection relates to the lack of specificity in the claim regarding the location of the antireflection plate, Applicant has amended claim 1 to obviate this issue. Insofar as the subject rejection relates to the lack of specificity in the claim regarding the location of the image recording device, Applicant respectfully submits that, as explained above, the image recording device may be located either inside the chamber or outside the chamber.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 1-4, 24-25, 27 and 34-35 stand rejected under 35 U.S.C. 102(b) “as being anticipated by Shimizu et al. (US Patent No. 5,719,679), hereinafter ‘Shimizu.’”

Applicant respectfully traverses the rejection as Shimizu neither anticipates nor renders obvious the claimed invention.

Claim 1, from which claims 2-4, 24-25, 27 and 34-35 depend, has been amended in this paper in the manner discussed above. Thus amended, claim 1 recites, amongst other things, sufficient

structure to result in the chamber having few optical reflections. Such structure is neither taught nor suggested by Shimizu.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 26 and 28 stand rejected under 35 U.S.C. 103(a) “as being unpatentable over Shimizu et al. (US Patent No. 5,719,679).”

Applicant respectfully traverses the subject rejection. Claims 26 and 28 depend ultimately from claim 1. Claim 1 is patentable over Shimizu for at least the reasons discussed above. Therefore, based at least on their respective dependencies from claim 1, claims 26 and 28 are patentable over Shimizu.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 29-30 stand rejected under 35 U.S.C. 103(a) “as being unpatentable over Shimizu (US Patent No. 5,719,679) in view of Watson et al. (WO 99/28724), hereinafter Watson.”

Applicant respectfully traverses the subject rejection. Claims 29-30 depend ultimately from claim 1. Claim 1 is patentable over Shimizu for at least the reasons given above. Watson fails to cure all of the deficiencies of Shimizu with respect to claim 1. Therefore, based at least on their respective dependencies from claim 1, claims 29-30 are patentable over Shimizu and Watson.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 31-33 stand rejected under 35 U.S.C. 103(a) “as being unpatentable over Shimizu (US Patent No. 5,719,679) in view of Toshiaki (JP 09-133687).”

Applicant respectfully traverses the subject rejection. Claims 31-33 depend ultimately from claim 1. Claim 1 is patentable over Shimizu for at least the reasons given above. Toshiaki fails to cure all of the deficiencies of Shimizu with respect to claim 1. Therefore, based at least on their

respective dependencies from claim 1, claims 31-33 are patentable over the applied combination of references.

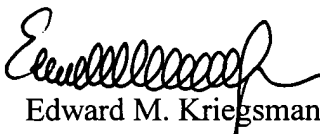
Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

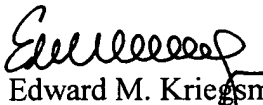
Respectfully submitted,

Kriegsman & Kriegsman

By:   
Edward M. Kriegsman  
Reg. No. 33,529  
30 Turnpike Road, Suite 9  
Southborough, MA 01702  
(508) 481-3500

Dated: March 26, 2010

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 26, 2010

  
Edward M. Kriegsman  
Reg. No. 33,529  
Dated: March 26, 2010